

FIRST REGULAR SESSION

HOUSE BILL NO. 1191

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CHIPMAN.

2580H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 115.125, 115.127, 115.317, 115.341, 115.363, 115.367, 115.373, and 115.381, RSMo, and to enact in lieu thereof seven new sections relating to special elections.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 115.125, 115.127, 115.317, 115.341, 115.363, 115.367, 115.373, and 115.381, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 115.125, 115.127, 115.317, 115.341, 115.363, 115.367, and 115.373, to read as follows:

115.125. 1. Not later than 5:00 p.m. on the tenth Tuesday prior to any election, except a special election to decide an election contest, tie vote or an election to elect seven members to serve on a school board of a district pursuant to section 162.241, or a delay in notification pursuant to subsection 2 of this section, or pursuant to the provisions of section 115.399, the officer or agency calling the election shall notify the election authorities responsible for conducting the election. The notice shall be in writing, shall specify the name of the officer or agency calling the election and shall include a certified copy of the legal notice to be published pursuant to subsection 2 of section 115.127. The notice and any other information required by this section may, with the prior notification to the election authority receiving the notice, be accepted by facsimile transmission prior to 5:00 p.m. on the tenth Tuesday prior to the election, provided that the original copy of the notice and a certified copy of the legal notice to be published shall be received in the office of the election authority within three business days from the date of the facsimile transmission. In lieu of a certified copy of the legal notice to be published pursuant to subsection 2 of section 115.127, each notice of a special election to fill a

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 vacancy shall include the name of the office to be filled, the [date] **dates** of the **primary election**
16 **for the special election and the special** election, and the [date] **dates** by which candidates must
17 be [selected or] filed for the office. Not later than the fourth Tuesday prior to any **primary**
18 **election for a special election or** special election to fill a vacancy called by a political
19 subdivision or special district, the officer or agency calling the election shall certify a sample
20 ballot to the election authorities responsible for conducting the election.

21 2. Except as provided for in sections 115.247 and 115.359, if there is no additional cost
22 for the printing or reprinting of ballots or if the political subdivision or special district calling for
23 the election agrees to pay any printing or reprinting costs, a political subdivision or special
24 district may, at any time after certification required in subsection 1 of this section, but no later
25 than 5:00 p.m. on the sixth Tuesday before the election, be permitted to make late notification
26 to the election authority pursuant to court order, which, except for good cause shown by the
27 election authority in opposition thereto, shall be freely given upon application by the political
28 subdivision or special district to the circuit court of the area of such subdivision or district. No
29 court shall have the authority to order an individual or issue be placed on the ballot less than six
30 weeks before the date of the election, except as provided in sections 115.361 and 115.379.

115.127. 1. Except as provided in subsection 4 of this section, upon receipt of notice of
2 a special election to fill a vacancy submitted pursuant to section 115.125, the election authority
3 shall cause legal notice of the **primary election for the special election and the** special election
4 to be published in a newspaper of general circulation in its jurisdiction. The notice shall include
5 the name of the officer or agency calling the **special** election, the date and time of the **primary**
6 **election for the special election and the special** election, the name of the office to be filled and
7 the date by which candidates must be [selected or] filed for the office. Within one week prior
8 to each **primary election for a special election and the** special election to fill a vacancy held
9 in its jurisdiction, the election authority shall cause legal notice of the [election] **elections** to be
10 published in two newspapers of different political faith and general circulation in the jurisdiction.
11 The legal notice shall include the date and time of the [election] **elections**, the name of the officer
12 or agency calling the [election] **elections** and a sample ballot. If there is only one newspaper of
13 general circulation in the jurisdiction, the notice shall be published in the newspaper within one
14 week prior to [the] **each** election. If there are two or more newspapers of general circulation in
15 the jurisdiction, but no two of opposite political faith, the notice shall be published in any two
16 of the newspapers within one week prior to [the] **each** election.

17 2. Except as provided in subsections 1 and 4 of this section and in sections 115.521,
18 115.549 and 115.593, the election authority shall cause legal notice of each election held in its
19 jurisdiction to be published. The notice shall be published in two newspapers of different
20 political faith and qualified pursuant to chapter 493 which are published within the bounds of

21 the area holding the election. If there is only one so qualified newspaper, then notice shall be
22 published in only one newspaper. If there is no newspaper published within the bounds of the
23 election area, then the notice shall be published in two qualified newspapers of different political
24 faith serving the area. Notice shall be published twice, the first publication occurring in the
25 second week prior to the election, and the second publication occurring within one week prior
26 to the election. Each such legal notice shall include the date and time of the election, the name
27 of the officer or agency calling the election and a sample ballot; and, unless notice has been
28 given as provided by section 115.129, the second publication of notice of the election shall
29 include the location of polling places. The election authority may provide any additional notice
30 of the election it deems desirable.

31 3. The election authority shall print the official ballot as the same appears on the sample
32 ballot, and no candidate's name or ballot issue which appears on the sample ballot or official
33 printed ballot shall be stricken or removed from the ballot except on death of a candidate or by
34 court order.

35 4. In lieu of causing legal notice to be published in accordance with any of the provisions
36 of this chapter, the election authority in jurisdictions which have less than seven hundred fifty
37 registered voters and in which no newspaper qualified pursuant to chapter 493 is published, may
38 cause legal notice to be mailed during the second week prior to the election, by first class mail,
39 to each registered voter at the voter's voting address. All such legal notices shall include the date
40 and time of the election, the location of the polling place, the name of the officer or agency
41 calling the election and a sample ballot.

42 5. If the opening date for filing a declaration of candidacy for any office in a political
43 subdivision or special district is not required by law or charter, the opening filing date shall be
44 8:00 a.m., the sixteenth Tuesday prior to the election, except that for any home rule city with
45 more than four hundred thousand inhabitants and located in more than one county and any
46 political subdivision or special district located in such city, the opening filing date shall be 8:00
47 a.m., the fifteenth Tuesday prior to the election. If the closing date for filing a declaration of
48 candidacy for any office in a political subdivision or special district is not required by law or
49 charter, the closing filing date shall be 5:00 p.m., the eleventh Tuesday prior to the election. The
50 political subdivision or special district calling an election shall, before the sixteenth Tuesday, or
51 the fifteenth Tuesday for any home rule city with more than four hundred thousand inhabitants
52 and located in more than one county or any political subdivision or special district located in
53 such city, prior to any election at which offices are to be filled, notify the general public of the
54 opening filing date, the office or offices to be filled, the proper place for filing and the closing
55 filing date of the election. Such notification may be accomplished by legal notice published in
56 at least one newspaper of general circulation in the political subdivision or special district.

57 6. Except as provided for in sections 115.247 and 115.359, if there is no additional cost
58 for the printing or reprinting of ballots or if the candidate agrees to pay any printing or reprinting
59 costs, a candidate who has filed for an office or who has been duly nominated for an office may,
60 at any time after the certification required in section 115.125 but no later than 5:00 p.m. on the
61 sixth Tuesday before the election, withdraw as a candidate pursuant to a court order, which,
62 except for good cause shown by the election authority in opposition thereto, shall be freely given
63 upon application by the candidate to the circuit court of the area of such candidate's residence.

115.317. 1. The filing of a valid statewide petition shall constitute the political group
2 a new party for the purpose of placing its name and the names of its statewide and district and
3 county candidates which are submitted pursuant to section 115.327 on the ballot at the next
4 general election or [the special election if the petition nominates a candidate to fill a vacancy
5 which is to be filled at a] special election. The filing of a valid countywide or district wide
6 petition shall constitute the political party a new party for the purpose of placing its name and
7 the names of its county and district candidates on the ballot at the next general election or [the
8 special election if the petition nominates a candidate to fill a vacancy which is to be filled at a]
9 special election. If presidential electors are nominated by the petition, the names of the
10 candidates for elector shall not be placed on the official ballot, but the name of their candidate
11 for president and the name of their candidate for vice president shall be placed on the official
12 ballot at the next presidential election.

13 2. If, at an election in which the new party's candidates first appear, any of its candidates
14 for a statewide office receives more than two percent of all votes cast for the office, the new
15 party shall become an established political party for the state. If, at the election in which the new
16 party's candidates first appear, any of its candidates for an office receives more than two percent
17 of the votes cast for the office in any district or county, the new party shall become an established
18 political party only for the district or county.

19 3. If, after becoming an established political party for the state, at any two consecutive
20 elections a party fails to have a statewide candidate or fails to poll for a candidate for any
21 statewide office more than two percent of the entire vote cast for the office, a party shall no
22 longer be deemed an established political party. If, after becoming an established political party
23 for a district or county, at any two consecutive elections a party fails to have a candidate in the
24 district or county, as the case may be, or fails to poll more than two percent of the entire vote cast
25 at either of the last two elections in which the district or political subdivision voted as a unit for
26 the election of officers or representatives to serve its areas, the party shall no longer be deemed
27 an established political party.

115.341. 1. For the nomination of candidates to be elected at the next general election, a primary election shall be held on the first Tuesday after the first Monday in August of even-numbered years.

2. **For the nomination of candidates to be elected at a special election called to fill a vacancy in office, a primary election shall be held on a Tuesday at least forty-five days prior to the date of the special election. Filing for the office shall be as provided for in sections 115.305 to 115.359.**

115.363. 1. Except as provided in section 115.361, a party nominating committee of a political party may select a party candidate for nomination to an office on the primary election ballot **preceding either a general election or special election called to fill a vacancy in office** in the following cases:

(1) If there are no candidates for nomination as the party candidate due to death of all the party's candidates after 5:00 p.m. on the last day in which a person may file as a candidate for nomination and at or before 5:00 p.m. on the fourth Tuesday prior to the primary election;

(2) If there are no candidates for nomination as the party candidate due to withdrawal after 5:00 p.m. on the last day in which a person may file as a candidate for nomination and at or before 5:00 p.m. on whatever day may be fixed by law as the final date for withdrawing as a candidate for the office;

(3) If there are no candidates for nomination as the party candidate due to death or disqualification of all candidates within seven days prior to the filing deadline and if no person has filed for the party nomination within that time;

(4) If there are no candidates for nomination as the party candidate due to disqualification of all party candidates after 5:00 p.m. on the last day on which a person may file as a candidate for nomination, and at or before 5:00 p.m. on the sixth Tuesday prior to the primary election; or

(5) If a candidate for the position of political party committeeman or committeewoman dies or withdraws as provided in subsection 1 or 2 of section 115.359 after the eighth Tuesday prior to the primary election, leaving no candidate.

2. Any established political party may select a candidate for nomination, if a candidate who is the incumbent or only candidate dies, is disqualified or withdraws pursuant to subsection 1 or 2 of section 115.359 after 5:00 p.m. on the eighth Tuesday prior to the primary election, and at or before 5:00 p.m. on whatever day is fixed by law as the final date for withdrawing as a candidate for the office.

3. A party nominating committee may select a party candidate for election to an office on the general election **or special election** ballot in the following cases:

29 (1) If the person nominated as the party candidate shall die at or before 5:00 p.m. on the
30 fourth Tuesday prior to the general election **or special election**;

31 (2) If the person nominated as the party candidate **from the primary election** is
32 disqualified at or before 5:00 p.m. on the sixth Tuesday prior to the general election **or special**
33 **election**;

34 (3) If the person nominated as the party candidate shall withdraw at or before 5:00 p.m.
35 on whatever day may be fixed by law as the final date for withdrawing as a candidate for the
36 office;

37 (4) If a candidate for nomination to an office in which the person is the party's only
38 candidate dies after 5:00 p.m. on the fourth Tuesday prior to any primary election, withdraws as
39 provided in subsection 1 of section 115.359 after 5:00 p.m. on the fourth Tuesday prior to any
40 primary election, or is disqualified after 5:00 p.m. on the sixth Tuesday before any primary
41 election.

42 4. If a person nominated as a party's candidate **from the primary election** who is
43 unopposed shall die at or before 5:00 p.m. on the fourth Tuesday prior to the general election **or**
44 **special election**, is disqualified at or before 5:00 p.m. on the sixth Tuesday prior to the general
45 election **or special election**, or shall withdraw at or before 5:00 p.m. on whatever day may be
46 fixed by law as the final date for withdrawing as a candidate for the office, the party nominating
47 committee for any established political party may select a party candidate.

48 [5. A party nominating committee may select a party candidate for election to an office
49 in the following cases:

50 (1) For an election called to fill a vacancy in an office;

51 (2) for an election held pursuant to the provisions of section 105.030 to fill an unexpired
52 term resulting from a vacancy in an office that occurs within fourteen days prior to the filing
53 deadline for the primary election and not later than the eighth Tuesday prior to the general
54 election. If such vacancy occurs prior to the fourteenth day before the filing deadline for a
55 primary election, filing for the office shall be as provided for in sections 115.305 to 115.359.]

115.367. 1. In the event that the boundaries of a district have been altered, or a new
2 district established for a candidate to be selected by a party committee since the last election in
3 which a party candidate ran for such office, the members of the nominating committee shall be
4 the members of the various nominating committees for that office, as provided in section
5 115.365 who reside within the altered or new district; provided, however, that members of
6 nominating committees for candidates for special elections **only in circumstances permitted**
7 **under section 115.363** to fill vacancies conducted pursuant to section 21.130 shall be from the
8 old districts. The chairman of the nominating committee shall be the committee chairman of the

9 county which polled the highest vote for the party candidate for governor within the area to be
10 represented at the last gubernatorial election.

11 2. In the event that a candidate is to be selected by a party committee of a new political
12 party which has not yet elected committeemen and committeewomen in the manner provided by
13 law, the chairman of the nominating committee shall be the provisional chairman of the party
14 for the state, or if the political party is formed for a district or political subdivision less than the
15 state, the chairman of the nominating committee shall be the provisional chairman of the party
16 for such district or political subdivision. The chairman of the nominating committee shall
17 appoint additional members of the nominating committee, not less than four in number.

18 3. In the event that a candidate is to be selected for nomination or election to an office
19 by a new political party which has elected committeemen and committeewomen in the manner
20 provided for established political parties, the members of the nominating committee shall be the
21 same as provided in section 115.365.

115.373. 1. The name of a candidate selected by a party nominating committee for a
2 primary [or] , general, **or special** election to fill a vacancy created by death, withdrawal or
3 disqualification shall be filed with the secretary of state or proper election authority no later than
4 5:00 p.m. on the twenty-eighth day after the vacancy occurs or no later than 5:00 p.m. on the
5 fourth Friday prior to the election, whichever occurs sooner. The name of a person selected by
6 a party nominating committee as a candidate to fill an unexpired term shall be filed with the
7 secretary of state or proper election authority no later than 5:00 p.m. on the day which is midway
8 between the day the election is called and election day.

9 2. If the candidate selected by a party nominating committee for a primary, general, or
10 special election ballot dies prior to the election, the vacancy created by such death may be filled
11 in the manner provided for filling vacancies created by death on the primary [and] , general, **and**
12 **special** election ballots.

[115.381. Whenever the selections are properly certified to the
2 secretary of state by the chair or acting chair of the party nominating
3 committees for a special election or after the secretary of state has
4 certified the names of candidates pursuant to section 115.387 or 115.401,
5 the secretary of state shall notify all appropriate election authorities of the
6 selections in a timely fashion.]

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